



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[EPA-R08-OPPT-2015-0044; FRL-9928-31-Region-8]

**Lead-Based Paint Renovation, Repair and Painting Activities
in Target Housing and Child-Occupied Facilities; State of Utah;
Notice of Self-Certification Program Authorization**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Self-certification program authorization; request for comments and opportunity for public hearing.

SUMMARY: This document announces that on April 20, 2010, the State of Utah was deemed authorized under section 404(a) of the Toxic Substances Control Act (TSCA) to administer and enforce requirements for a renovation, repair and painting (RRP) program in accordance with section 402(c)(3) of TSCA. This document also announces that the Environmental Protection Agency (EPA) is seeking comment during a 45-day public comment period, and is providing an opportunity to request a public hearing within the first 15 days of this comment period on whether Utah's program is at least as protective as the federal program and provides for adequate enforcement. This document also announces that the authorization of the Utah 402(c)(3) program, which was deemed authorized by regulation and statute, will continue without further notice unless the EPA, based on its own review and/or comments received during the comment period, disapproves the Utah program application.

DATES: Comments, identified by docket identification (ID) number EPA-R08-OPPT-2015-0044, must be received on or before [INSERT DATE 45 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. In addition, a public hearing request must be submitted on or before [INSERT DATE 15 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments and requests for a public hearing may be submitted by mail, electronically or in person. Please follow the detailed instructions for each method as provided in section **I. General Information** of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by the EPA, it is important that you identify docket ID number EPA-R08-OPPT-2015-0044 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Michelle Reichmuth, Technical Contact, Lead, Pesticides and Children's Health Unit, Partnerships and Environmental Stewardship Program, Office of Partnerships and Regulatory Assistance, United States Environmental Protection Agency, Region 8, 1595 Wynkoop Street (8P-PES), Denver, Colorado 80202; telephone: (303) 312-6966; or e-mail: reichmuth.michelle@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

II. Background

III. State Program Description Summary

IV. Federal Overfiling

V. Withdrawal of Authorization

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, to entities offering Lead-Safe Renovation courses, and to firms and individuals engaged in renovation and remodeling activities of pre-1978 housing in the State of Utah. Individuals and firms falling under the North American Industrial Classification System (NAICS) codes 231118, 238210, 238220, 238320, 531120, 531210, 53131, e.g., General Building Contractors/Operative Builders, Renovation Firms, Individual Contractors, and Special Trade Contractors like Carpenters, Painters, Drywall Workers and Plumbers, “Home Improvement” Contractors, as well as Property Management Firms and some Landlords are also affected by these rules. This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed here could also be affected. The NAICS codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get additional information, including copies of this document or other related documents?

1. *Electronically*: The EPA has established an official record for this action under docket ID number EPA-R08-OPPT-2015-0044. The official record consists of the documents specifically referenced in this action, this document, the State of Utah 402(c)(3) program authorization application, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI).

All documents in the official record are listed in the docket index available at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically at <http://www.regulations.gov> or, if only available in hard copy, at the addresses listed below.

2. *In person*: You may read this document and related documents by visiting the Utah Department of Environmental Quality (UDEQ), Division of Air Quality (DAQ), 195 North 1950 West, 4th Floor, Salt Lake City, Utah, 84116. You should arrange your visit to the UDEQ office by contacting Robert Ford at (801) 536-4451 or by email at rwford@utah.gov. You may also read this document and related documents by visiting the EPA Region 8 Office at 1595 Wynkoop Street, Denver, Colorado, 80202. You should arrange your visit by contacting Michelle Reichmuth at (303) 312-6966 or by email at reichmuth.michelle@epa.gov.

C. How and to whom do I submit comments?

You may submit comments electronically, through the mail, or in person. To ensure proper receipt by the EPA, it is important that you identify docket ID number EPA-R08-OPPT-2015-0044 in the subject line on the first page of your response.

1. *Electronically*: You may submit your comments and hearing requests electronically by email to: reichmuth.michelle@epa.gov or through <http://www.regulations.gov>, or mail your computer disk to the address identified below. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in Microsoft Word or ASCII file format.

2. *By mail:* Submit your comments and hearing requests to Michelle Reichmuth, EPA Region 8, 1595 Wynkoop Street (8P-PES), Denver, Colorado 80202.

3. *By person or courier:* Deliver your comments and hearing requests to: EPA Region 8, 1595 Wynkoop Street (8P-PES), Denver, Colorado 80202. The regional office is open from 8 a.m. to 5 p.m., Monday through Friday, excluding legal holidays. The telephone number for the regional office is (303) 312-6312.

D. How should I handle CBI information that I want to submit to the agency?

You may claim information that you submit to the EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified under **FOR FURTHER INFORMATION CONTACT**.

E. What should I consider as I prepare my comments for the EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you use.
3. Provide copies of any technical information and/or data you use that support your views.
4. If you estimate potential burden or costs, explain how you arrive at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by the EPA, identify docket ID number EPA-R08-OPPT-2015-0044 in the subject line on the first page of your response. You may also provide the name, date and Federal Register citation.

II. Background

A. What action is the agency taking?

The EPA is announcing that the State of Utah was deemed authorized under section 404(a) of TSCA, 15 United States Code (U.S.C.) 2684(a) and 40 CFR 745.324(d)(2), to administer and enforce requirements for an RRP program in accordance with section 402(c)(3) of TSCA, 15 U.S.C. 2682(c)(3) on April 20, 2010. The 402(c)(3) program ensures that training providers are accredited to teach renovation classes, that individuals performing renovation activities are properly trained and certified as renovators, that firms are certified as renovation firms, and that specific work practices are followed during renovation activities. On April 20, 2010, Utah submitted an application under section 404 of TSCA requesting authorization to administer and enforce requirements for an RRP program in accordance with section 402(c)(3) of TSCA. Utah's application included self-certification that the program is at least as protective as the federal program and provides for adequate enforcement. Therefore, pursuant to section 404(a) of TSCA and 40 CFR 745.324(d)(2), the Utah RRP program is deemed authorized as of the date of submission and until such time as the agency disapproves the program application or withdraws program authorization. On May 2, 2012, the Utah Air Quality Board (Board) adopted proposed UDEQ DAQ lead-based paint administrative rule changes with an effective date of May 3, 2012.

The changes reflect EPA rule amendments through August 5, 2011 (76 FR 47918). Pursuant to section 404(b) of TSCA and 40 CFR 745.324(e)(2), the EPA is providing notice, opportunity for public comment and opportunity for a public hearing on whether the state program application and subsequent administrative rule changes are at least as protective as the federal program and provide for adequate enforcement. If a hearing is requested and granted, the EPA will issue a Federal Register notice announcing the date, time and place of the hearing. The authorization of the Utah 402(c)(3) program, which was deemed authorized by regulation and statute on April 20, 2010, will continue without further notice unless the EPA, based on its own review and/or comments received during the comment period, disapproves the program application.

B. What is the EPA's authority for taking this action?

On October 28, 1992, the Housing and Community Development Act of 1992, Public Law 102-550, became law. Title X of that statute was the Residential Lead-Based Paint Hazard Reduction Act of 1992. That act amended TSCA (15 U.S.C. 2601-2695d) by adding Title IV (15 U.S.C. 2681-2692), entitled "Lead Exposure Reduction." On April 22, 2008, the EPA promulgated the final TSCA section 402(c)(3) regulations governing renovation activities (73 FR 21692). These regulations require that in order to do renovation activities for compensation, renovators must first be properly trained and certified, must be associated with a certified renovation firm, and must follow specific work practice standards, including recordkeeping requirements. In addition, the rule prescribes requirements for the training and certification of dust sampling technicians. The EPA believes that regulation of renovation activities will help to reduce the exposures that cause serious lead poisonings, especially in children under age 6 who are particularly susceptible to the hazards of lead.

Under section 404 of TSCA, a state may seek authorization from the EPA to administer and enforce its own RRP program in lieu of the federal program. The regulation governing the authorization of a state program under section 402 of TSCA are codified at 40 CFR part 745, subpart Q. States that choose to apply for program authorization must submit a complete application to the appropriate regional EPA office for review. Those applications will be reviewed by the EPA within 180 days of receipt of the complete application. To receive EPA approval, a state must demonstrate that its program is at least as protective of human health and the environment as the federal program, and provides for adequate enforcement, as required by section 404(b) of TSCA. EPA's regulations at 40 CFR part 745, subpart Q provide the detailed requirements a state program must meet in order to obtain EPA approval.

A state may choose to certify that its own RRP program meets the requirements for EPA approval, by submitting a letter signed by the Governor or Attorney General stating that the program is at least as protective of human health and the environment as the federal program and provides for adequate enforcement. Upon submission of such a certification letter, the program is deemed authorized pursuant to TSCA section 404(a) and 40 CFR 745.324 (d)(2). This authorization is withdrawn, however, if the EPA disapproves the application or withdraws the program authorization.

III. State Program Description Summary

The following sections are from the legislative and administrative rule summaries and the general program and enforcement and compliance program descriptions submitted in the UDEQ DAQ's TSCA 402(c) RRP Rule Program Authorization Application:

A. Legislative Summary

During the 1998 Utah legislative session, Senate Bill 118 (SB 118) was unanimously passed by both the House and the Senate. SB 118 amended Utah Code Annotated (UCA) section 19-2-104 of the Utah Air Conservation Act which provides authority for the Board to make administrative rules for a Utah lead-based paint program. The legislation specifically gives authority to the Board to make rules for training, certification and performance requirements in accordance with TSCA sections 402 and 404. SB 118 also provides the Board with the authority to establish work practice, certification and clearance sampling requirements for persons who conduct lead-based paint inspections in facilities subject to TSCA Title IV.

The Utah Attorney General's Office reviewed the content of SB 118 prior to enactment and determined that SB 118 would provide the Board with the necessary legislative authority to develop a Utah lead-based paint program that is as protective as the federal lead-based paint program (40 CFR part 745).

B. Administrative Rule Summary

On January 6, 2010, the UDEQ DAQ provided the Board with a proposed modification to the existing administrative rule (Utah Administrative Code (UAC) R307-840 - Lead-Based Paint Accreditation, Certification and Work Practice Standards) to establish the rules necessary for the Utah lead-based paint program to administer 40 CFR part 745 subpart E - Residential Property Renovation which is otherwise known as the RRP rule. UAC R307-840, R307-841 and R307-842 substantially adopt 40 CFR part 745 subpart E by reference.

On April 7, 2010, the UDEQ DAQ reported back to the Board that no public comments were received during the public hearing period. The Board subsequently adopted the UDEQ DAQ proposed modifications to the existing version of UAC R307-840 with an effective date of April 8, 2010.

UAC R307-840, R307-841 and R307-842 incorporate the federal regulation with a few modifications to facilitate lead-based paint program implementation by the State of Utah. The UDEQ DAQ considers these modifications necessary to implement an effective lead-based paint program and also considers these modifications to be as protective to human health and the environment as the federal lead-based paint program. The following paragraphs provide a brief summary of the three sections in UAC R307-840. Each section will identify which parts of the federal regulations in 40 CFR part 745 subpart E are adopted by reference and gives a brief overview of the contents of each section.

Throughout UAC R307-840, R307-841, and R307-842, where appropriate, references to the "EPA" (the U.S. Environmental Protection Agency) have been replaced with "the Executive Secretary" (meaning Executive Secretary of the Utah Air Quality Board) when "EPA" is used for lead-based paint program administrative activities.

1. UAC R307-840 Lead-Based Paint Program Purpose, Applicability and Definitions

This section substantially adopts 40 CFR 745.83 and 745.220 by reference. Where appropriate, references to federal rules were replaced with the corresponding reference to the UDEQ DAQ lead-based paint rule. Additionally, identical provisions that had separate definitions in different subparts of the federal regulation were replaced by the most stringent definition.

2. UAC R307-841 Residential Property and Child-Occupied Facility Renovation

This section substantially adopts 40 CFR 745.80, 745.81, 745.82, 745.84, 745.85, 745.86, 745.89, 745.90 and 745.91(a) from the federal lead-based paint regulations by reference. This section outlines the requirements for Utah lead-based paint rule purpose, effective dates, applicability, information distribution requirements, work practice standards, recordkeeping and

reporting, and firm and renovator certification regulations as they apply to the Utah RRP rule. The federal rule was also modified to better conform to state rule formatting and punctuation and references to federal rules were replaced with the corresponding reference to the UDEQ DAQ lead-based paint rule. References to fee refunds were also removed as fees are nonrefundable per State of Utah policy.

3. UAC R307-842 Lead-Based Paint Activities

This section was modified to incorporate changes made by federal RRP regulations in 40 CFR 745.225 and 745.226. The federal rule was also modified to better conform to state rule formatting and punctuation and references to federal rules were replaced with the corresponding reference to the UDEQ DAQ lead-based paint rule. Finally this section was also modified to include fees for renovator, dust sampling technician and firm certification.

C. General Program Description

As directed by the Board, the UDEQ DAQ developed state administrative rules for 40 CFR part 745 subpart E. The Board finalized the rulemaking process modifying UAC R307-840 - Lead-Based Paint Accreditation, Certification and Work Practice Standards on April 7, 2010, making the rules effective on April 8, 2010.

UAC R307-840, R307-841 and R307-842 substantially adopt 40 CFR part 745 subpart E by reference. Because the UDEQ DAQ substantially adopted the federal regulations by reference, the Utah lead-based paint rule is substantially the same as the federal lead-based paint rule and it is unnecessary to further describe the federal lead-based paint program to the EPA. A detailed explanation of the modifications found in UAC R307-840, R307-841 and R307-842 are described in the program analysis section of the Utah program application. It is the opinion of the UDEQ DAQ that UAC R307-840, R307-841 and R307-842 allow the state to develop and

implement a Utah RRP program that is as protective to human health and the environment as the federal program.

The UDEQ DAQ believes UAC R307-840, R307-841 and R307-842 meet the procedures and requirements for administration of the RRP program as outlined in 40 CFR 745.326(a), (c), (d), and (e). The UDEQ DAQ believes it has established the procedures and work practice requirements for compensated RRP projects in regulated facilities as well as training program accreditation, and renovator certification by substantially adopting the federal regulations by reference. By adopting the federal regulations by reference, UDEQ DAQ believes UAC R307-840, R307-841 and R307-842 have clear standards for identifying activities that trigger the RRP rule requirements and establishes procedures for certification of firms and individuals and work practice requirements equivalent to the federal standards.

D. Enforcement and Compliance Program Description

The UDEQ DAQ is applying for final Enforcement/Compliance (E/C) program approval for the Utah lead-based paint program in its April 20, 2010 submission. This description of the E/C program shows that the DAQ has the legal authority and ability to immediately implement an E/C program. The DAQ has adequate standards, administrative rules and legal authority as demonstrated below in E/C Element 1. The DAQ will carry out a level of compliance monitoring and enforcement necessary to ensure that the Utah lead-based paint program addresses any significant risks posed by noncompliance with the Utah lead-based paint administrative rules.

Additionally, the DAQ will implement all of the components outlined in E/C Element 2 and E/C Element 3. This requires the DAQ to submit an annual report to the EPA Region 8 Administrator summarizing the Utah lead-based paint E/C program activities performed during the previous year for, at least, the first three years of authorization. The following sections

provide the additional required information about E/C Elements 1-3 (as outlined in 40 CFR 745.327):

1. Enforcement and Compliance Element 1

i. Lead-Based Paint Activities and Requirements

The DAQ demonstrated in its application that the Utah lead-based paint program has the legislative authority (as shown in the enrolled copy of Senate Bill 118, House Bill 165 (Appendix 3 of the Utah program application) and the Utah Air Conservation Act (Appendix 9 of the Utah program application)) and that its lead-based paint administrative rules meet the standards outlined in 40 CFR 745.326 (as shown in R307-840, R307-841 and R307-842 UAC, Appendix 4 of the Utah program application).

ii. Authority to Enter

Authority to enter for the Utah lead-based paint program is found in the Utah Air Conservation Act 19-2-107(2)(d), UCA, which states:

(2) The executive secretary may:

(d) as authorized by the board, subject to the provisions of this chapter, authorize any employee or representative of the department to enter at reasonable time and upon reasonable notice in or upon public or private property for the purposes of inspecting and investigating conditions and plant records concerning possible air pollution.

Additional authority to enter is found in the Utah Air Conservation Act 19-2-108(6)(a), UCA, which states:

(6)(a) Any authorized officer, employee, or representative of the board may enter and inspect any property, premise, or place on or at which an air contaminant source is located or is being constructed, modified, installed, or established at any reasonable time

for the purpose of ascertaining the state of compliance with this chapter and the rules adopted under it.

The Utah lead-based paint program is authorized by the Utah Air Conservation Act 19-2-104(1)(i), 19-2-104(3)(r)(iv) and 19-2-104(3)(w), UCA and the Utah lead-based paint rule was written based on this authority. It is the opinion of the Utah Attorney General's office that the authority stated above is sufficient to perform the inspections necessary to assess compliance with UAC R307-840, UAC R307-841 and UAC R307-842.

iii. Flexible Remedies

The Utah lead-based paint E/C program will provide for a diverse and flexible array of enforcement remedies. These remedies will include warning letters, notices of noncompliance, notices of violation, administrative or civil actions and criminal actions, when appropriate. The Utah lead-based paint program will be able to select from several enforcement alternatives, taking into consideration the potential or actual risk and the gravity of the violation.

Warning letters, notices of noncompliance and notices of violations are methods currently being used within the DAQ and specifically the Utah lead-based paint program. Specific authority to issue notices of violation are found in UCA 19-2-110(1)(a), which states:

Whenever the executive secretary has reason to believe that a violation of any provision of this chapter or any rule issued under it has occurred, he may serve written notice of the violation upon the alleged violator. The notice shall specify the provision of this chapter or rule alleged to be violated, the facts alleged to constitute the violation, and may include an order that necessary corrective action be taken within a reasonable time.

Authority to issue warning letters or notices of noncompliance to initiate voluntary compliance is found in UCA 19-2-110(2), which states:

Nothing in this chapter prevents the board from making efforts to obtain voluntary compliance through warning, conference, conciliation, persuasion, or other appropriate means.

Civil or criminal actions can also be used as a flexible remedy by the Utah lead-based paint program which was authorized through the Utah Air Conservation Act (Title 19, Chapter 2, UCA). The authority to assess civil penalties is found in the Utah Air Conservation Act 19-2-115(2)(a), UCA, which states:

(2)(a) A person who violates this chapter, or any rule, order, or permit issued or made under this chapter is subject in a civil proceeding to a penalty not to exceed \$10,000 per day for each violation.

Authority to assess criminal penalties is found in the Utah Air Conservation Act 19-2-115(3) and (4), UCA, which states:

(3) A person is guilty of a class A misdemeanor and is subject to imprisonment under Section 76-3-204 and a fine of not more than \$25,000 per day of violation if that person knowingly violates any of the following under this chapter:

- (a) an applicable standard or limitation;
- (b) a permit condition; or
- (c) a fee or filing requirement.

(4) A person is guilty of a third degree felony and is subject to imprisonment under Section 76-3-203 and a fine of not more than \$25,000 per day of violation who knowingly:

- (a) makes any false material statement, representation, or certification, in any notice or report required by permit; or

(b) renders inaccurate any monitoring device or method required to be maintained by this chapter or applicable rules made under this chapter.

iv. Resources to Implement Lead-Based Paint Compliance and Enforcement Program

Personnel resources to implement the Utah lead-based paint program include 1.4 Environmental Scientist full time equivalent positions who will perform program administrative as well as E/C duties. The section Manager, Environmental Program Coordinator and Office Technician will provide the necessary support for the administration as well as E/C activities for the lead-based paint program. Additionally, the twelve Utah Local Health Departments/Districts (LHDs) will provide additional inspection support to the DAQ. These LHDs can provide the necessary inspections of lead-based paint activities performed within their jurisdiction. Personnel resources will be reevaluated on an annual basis to determine if they are adequate for the program. Fiscal resources for the Utah lead-based paint program are currently limited to the EPA lead-based paint grant authorized through 40 CFR 745.330 and fees generated by lead-based paint abatement project notification requirements as well as lead-based paint certification fees for individuals and firms.

2. Enforcement and Compliance Element 2

i. Training

The DAQ will continue to use its existing procedures for training enforcement and inspection personnel used by the Utah lead-based paint program. Inspectors will receive appropriate training and will be required to demonstrate knowledge of the lead-based paint abatement supervisor, abatement worker, inspector, risk assessor, project designer, renovator and dust sampling technician disciplines.

Inspectors will also be trained in violation discovery, obtaining consent, evidence gathering, preservation of evidence and chain-of-custody sampling procedures. Enforcement personnel will meet the training requirements of the inspector as well as additional training in case development procedures and maintenance of proper case files.

ii. Compliance Assistance

The DAQ will continue to implement its existing compliance assistance program for the public and the regulated community to help facilitate awareness and understanding of the Utah lead-based paint program. The Utah compliance assistance program will continue to focus on the requirements established in the Utah lead-based paint rule but will provide information to the public and regulated communities about other lead-based paint related subjects.

iii. Sampling Techniques

The Utah lead-based paint program presently has the equipment, training and technological capability necessary to collect samples for E/C issues. State and LHD personnel have received training as part of the Utah lead-based paint inspector and risk assessor courses in performing x-ray fluorescence (XRF) testing and collecting paint chip, dust wipe, soil and water samples. Additional training was received from the XRF manufacturer in analyzing samples with the NITON XLp 300 Series spectrum analyzer currently owned by the DAQ. Equipment to collect paint chip, dust wipe, soil and water samples have been assembled into kits at the DAQ and similar kits have been distributed to the LHDs. The DAQ has contracted with EMSL Analytical, Inc. (EMSL) to conduct the analysis of paint chip, dust wipe, soil and water samples. EMSL has been accredited by the American Industrial Hygiene Association (AIHA) through the EPA Environmental Lead Proficiency Analytical Testing (ELPAT) program (AIHA ELPAT Lab ID# 07014).

iv. Tracking Tips and Complaints

The DAQ has an existing program to track tips and complaints and it is their intent to expand this existing program for use with the RRP program.

v. Targeting Inspections

The Utah lead-based paint program will continue to use its existing procedures for targeting inspections to ensure compliance with the Utah lead-based paint rule. The principal mechanism to target compliance inspections will be through inspection of firms conducting RRP activities.

vi. Follow Up to Inspection Reports

The DAQ lead-based paint E/C program will demonstrate the ability to reasonably, and in a timely manner, process and follow up on inspection reports and other information generated through enforcement-related activities. The state lead-based paint program will be in a position to correct lead-based paint violations and effectively develop and issue enforcement remedies as follow up on identified lead-based paint violations. Programs within the DAQ have followed the "Timely and Appropriate Enforcement Response to Significant Air Pollution Violators" and the Division's "Compliance Program Operating Plan," or equivalent, which outlines timely and appropriate time frames for inspection and enforcement activities.

vii. Compliance Monitoring and Enforcement

The Utah lead-based paint program has demonstrated that it has the ability to ensure correction of lead-based paint violations and encompass either planned and/or responsive lead-based paint compliance inspections. The DAQ has also developed and issued enforcement responses, as appropriate, based on the violation.

3. Enforcement and Compliance Element 3

The DAQ will submit the Summary on Progress and Performance report which will summarize the results of implementing the lead-based paint E/C program. These reports will include all the required components as outlined in 40 CFR 745.324(h) and 40 CFR 745.327(d). These reports will be submitted to the EPA Region 8 Administrator on an annual basis for the first three years and either annually or bi-annually thereafter, at the discretion of the EPA.

IV. Federal Overfiling

Section 404(b) of TSCA makes it unlawful for any person to violate or fail or refuse to comply with any requirement of an approved state program. Therefore, the EPA reserves the

right to exercise its enforcement authority under TSCA against a violation of, or a failure or refusal to comply with, any requirement of an authorized state program.

V. Withdrawal of Authorization

Pursuant to section 404 of TSCA, the EPA Administrator may withdraw authorization of a state or tribal RRP program after notice and opportunity for corrective action, if the program is not being administered or enforced in compliance with standards, regulations and other requirements, established under the authorization. The procedures the EPA will follow for the withdrawal of an authorization are found at 40 CFR 745.324(i).

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead, Lead-based paint, Renovation, repair and painting, Work practice standards, Training, Certification, Reporting and recordkeeping requirements.

Dated: March 23, 2015.

Shaun L. McGrath,
Regional Administrator,
Region 8.

[FR Doc. 2015-12802 Filed: 6/3/2015 08:45 am; Publication Date: 6/4/2015]